

PT 98-50

Tax Type: PROPERTY TAX

Issue: Religious Ownership/Use

**STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
SPRINGFIELD, ILLINOIS**

FIRST UNITED METHODIST CHURCH)	
OF VANDALIA)	Docket #96-26-3
Applicant)	
)	Parcel Index # 182-14-00-500-224
v.)	
)	
THE DEPARTMENT OF REVENUE)	Barbara S. Rowe
OF THE STATE OF ILLINOIS)	Administrative Law Judge

RECOMMENDATION FOR DISPOSITION

Appearances: Mr. Jack Johnson, Burnside, Johnson & Choisser, for First United Methodist Church of Vandalia.

Synopsis:

The hearing in this matter was held at the Willard Ice Building, 101 W. Jefferson, Springfield, Illinois, on September 9, 1997, to determine whether or not Fayette County Parcel Index No. 182-14-00-500-224 qualified for a property tax exemption during the 1996 assessment year.

Reverend Lewis Frick, Pastor, and Dale Freeman, trustee, of First United Methodist Church of Vandalia (hereinafter referred to as the "Applicant") were present and testified on behalf of the applicant.

The issues in this matter include, first, whether the applicant was the owner of the parcel during the 1996 assessment year; secondly, whether the applicant is a religious organization; and

lastly, whether the parcel was used or being adapted for religious use by the applicant during the 1996 assessment year. Following the submission of all the evidence and a review of the record, it is determined that the applicant owned the parcel during all of the 1996 year. It is also determined that the applicant is a religious organization. Finally, it is determined that the applicant was in the process of adapting the property for religious purposes and using the property for parking for religious purposes during the 1996 assessment year. It is therefore recommended that Fayette County Parcel Index No. 182-14-00-500-224 be exempt from real estate taxation for the 1996 assessment year.

Findings of Fact:

1. The jurisdiction and position of the Department that Fayette County Parcel Index No. 182-14-00-500-224 did not qualify for a property tax exemption for the 1996 assessment year was established by the admission into evidence of Department Exhibit Nos. 1 through 5. (Tr. p. 11)

2. On December 18, 1996, the Department received a property tax exemption application from the Fayette County Board of Review for Permanent Parcel Index No. 182-14-00-500-224. The applicant had submitted the request, and the board recommended a full year exemption for the 1996 assessment year. The Department assigned Docket No. 96-26-3 to the application. (Dept. Grp. Ex. Ex. No. 2)

3. On May 15, 1997, the Department denied the requested exemption application, finding that the property was not in exempt use. (Dept. Ex. No. 3)

4. The applicant timely protested the denial of the exemption and requested a hearing in the matter. (Dept. Ex. No. 4)

5. The hearing at the Department's offices in Springfield, Illinois, on September 9, 1997, was held pursuant to that request. (Dept. Ex. No. 5)

6. The applicant acquired the subject property by a warranty deed dated November 9, 1995. (Dept. Grp. Ex. No. 2 pp. 5-7)

7. In order for a Methodist church in the Great River's Conference (applicant's conference) to authorize the purchase of a parcel of property, a special charge conference must be called where the membership of the church votes for or against the purchase. A written letter of permission from the district superintendent is also necessary. The district superintendent works with the cabinet, the bishop, and all the other district superintendents within the conference. (Tr. p. 17)

8. Applicant's church is landlocked. When the property at the opposite end of the block became available, the church felt that it was necessary to purchase it for additional parking and expansion. The applicant did not have sufficient parking for its membership at the time of acquisition of the parcel in question. (Tr. p. 13; Applicant's Ex. No. 5)

9. The applicant has been granted permission by the city to use a right of way along Fourth Street for additional parking. The applicant poured concrete along the right of way to establish additional parking spaces. A funeral home on the opposite corner of Fourth and Madison Streets has also given the applicant permission to use its parking lot on Sunday mornings. (Applicant's Ex. No. 5; Tr. p. 16)

10. The parcel in question is located on the corner of Fourth and Main Streets. Applicant's church is located 127 N. Fourth Street, Vandalia, Illinois, at the corner of Fourth and Madison Streets. (Dept. Grp. Ex. No. 2 p. 1; Tr. p. 14)

11. Prior to the applicant's acquisition of the subject parcel, the property had been used as a feed mill. (Dept. Ex. No. 4)

12. In the feed mill was an eight feet deep pit wherein the prior owners stored grain. An elevator pushed the grain up to be milled. The applicant had to fill in the pit with rock and other materials in order to make the area suitable for parking. (Tr. p. 15)

13. Behind the feed mill were two-grain bins that were sold at auction and removed by the recipients of the bid. This was apparently done prior to applicant's acquisition of the property.

14. The only building remaining on the subject parcel is a 3,200 square foot structure

that houses a single open area. In the process of removing the grain bins the southwest portion of the west wall of the building was also removed. The applicant had to hire someone to place a metal covering on the exposed area of the building as well as having footing poured to support the metal siding. The materials were ordered in November 1995 and paid for in December 1995. (Dept. Grp. Ex. No. 2 pp. 1, 9, 11-12; Applicant's Ex. No. 3; Tr. pp. 25-26)

15. When the grain bins were removed, the large building lost all electrical power. The building was not connected to running water or the sewer system. (Tr. pp. 24-25)

16. One of applicant's members has expertise in electrical work. His talents were put to use in the building on the parcel in question in June 1996. (Applicant's Ex. No. 2; Tr. pp. 24-27)

17. It was also necessary to clean the interior of the building. The applicant's members used a power washer type tool to try to remove years of dirt. The cleaning took two Saturdays in 1996. (Tr. p. 29)

18. During the time period that the applicant was cleaning and restoring the structure of the building, the church bus was stored in the building. (Dept. Grp. Ex. No. 2 p. 11; Tr. p. 30)

19. Also during 1996, one of the applicant's stained glass windows of the church was being replicated. The company doing the work used the building in question for storage. (Tr. p. 36)

20. Materials also had to be purchased to make the parking lot. The parking lot is located west of the building. The materials for the work were ordered, delivered, and paid for from November 1995 through June 1996. (Applicant's Ex. Nos. 1, 3; Tr. pp. 15, 25-28)

21. In March the applicant rented a loader to level out the parking lot. Large holes in the area had to be filled in with concrete, rock, and dirt. Crushed rock was placed on top for parking. (Applicant's Ex. No. 1; Tr. pp. 25).

22. Applicant's membership was 597 at the time of the hearing. It has grown from an average attendance of 268 in 1996. (Tr. p. 16)

23. On any given Sunday evening, there are fifty to eighty young people involved in

church activities at applicant's facility. The property in question was large enough for a volleyball court and one basketball court, which applicant's youth groups used during 1996. (Tr. pp. 17, 31, 34-35)

24. On November 3, 1996, the applicant held a hoe-down in the building for families of the congregation. The youth group and education committee provided refreshments. (Applicant's Ex. No. 4; Tr. p. 18)

25. The biggest need that the property served in 1996 was as additional parking space for applicant's growing congregation. (Tr. p. 20)

26. In the response letter to a memorandum sent by the Department on April 28, 1997, requesting additional information regarding the use of the parcel in 1996, the attorney for the applicant wrote:

No renovation work was carried out during the calendar year 1996. That means no renovation work whatsoever. Further, no renovation work has been carried out in the calendar year 1997, to the date of this letter. We hope to begin some renovation work in the [F]all of 1997, but that is [in] the planning stage only. (Dept. Grp. Ex. No. 2 pp. 13)

27. Applicant plans to build a youth room in one corner of the building in question. (Tr. p. 19)

28. I take administrative notice of the fact that the Department determined that the applicant is a religious organization that qualified for property tax exemptions pursuant to Docket Nos. 87-26-141, 87-26-144, and 87-26-152. (Tr. p. 10)

Conclusions of Law:

Article IX, §6 of the Illinois Constitution of 1970, provides in part as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

This provision is not self-executing but merely authorizes the General Assembly to enact legislation that exempts property within the constitutional limitations imposed. City of Chicago

v. Illinois Department of Revenue, 147 Ill.2d 484 (1992).

Pursuant to the authority granted by the Constitution, the legislature has enacted exemptions from property tax. One of the exemptions at issue is the religious exemption found at 35 **ILCS** 200/15-40. That portion of the statute exempts certain property from taxation in part as follows:

§ 15-40. Religious purposes, orphanages or school and religious purposes.
All property used exclusively for religious purposes, or used exclusively for school and religious purposes, or for orphanages and not leased or otherwise used with a view to profit, is exempt,

Also at issue is the exemption for parking lots found at 35 **ILCS** 200/15-125, which states:

Parking areas, not leased or used for profit, when used as a part of a use for which an exemption is provided by this Code and owned by any school district, non-profit hospital, school, or religious or charitable institution which meets the qualifications for exemption, are exempt.

The Department has previously granted an exemption to the applicant for its church and parsonage consequently finding that the applicant is a religious organization. Therefore, the only question before me is whether the use of the parcel at issue qualified for exemption for the 1996 assessment year,

In the case of Weslin Properties, Inc. v. Department, 157 Ill.App.3d 580 (2nd Dist. 1987), the Appellate Court held that property which was under development and adaptation for exempt use qualified for exemption. In that case, Weslin Properties, Inc. purchased a 24.3-acre tract on May 26, 1983, to be developed into an Urgent Care Center, hospital, and related medical facilities. During 1983, Weslin Properties, Inc. approved a site plan and hired an architect. Construction of the Urgent Care facility began in 1984. In 1985, the Urgent Care Center was completed and occupied. The Court held that the Urgent Care facility qualified for exemption during 1983, but that the remainder of the parcel did not qualify, as there had not been sufficient adaptation and development for use of the remainder of said parcel during 1983. The Court in Weslin noted that the parcel there in issue was to be used as a medical campus, which was a

complex and costly undertaking, requiring several years to be completed.

I find that the applicant's use of the building and parking area at issue is similar to the adaptation that the court found sufficient to qualify for a property tax exemption in Weslin. Here the applicant had to pour concrete in order to fill up holes for the parking area as well as pouring the foundation for the wall that it was necessary to erect at the Southwest side of the building. The work was begun in 1995 and continued through 1996, the taxable year in question. I find that the applicant has shown that there was sufficient adaptation of the parcel in question and the building thereon to qualify for exemption for the 1996 assessment year. I therefore recommend that Fayette County Parcel Index No. 182-14-00-500-224 be exempt from real estate taxation for the 1996 assessment year.

Respectfully Submitted,

Barbara S. Rowe
Administrative law Judge
June 5, 1998